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from surprising the other, and to avoid unnecessary consumption of time, and the judge can do both, if he is fit for his place, and not too much circumscribed by rules which he must observe. In some way our bar has identified the preservation of such rules with the liberty and rights of the citizens, and while it on occasion can indulge in rhetorical praise of the bench as the keystone of our constitution, in practice it too often regards with extreme jealousy and as a usurpation any latitude which the bench may allow itself in disregarding rules of procedure.

The gradual melioration which the federal bench has from time to time effected by using the rules of practice, rather as a guide to proper procedure, than as an absolute condition of any approach to the court, Mr. Street shows very clearly. To those who use the book intelligently, and above all to judges who can apprehend that the whole matter finally lies in their hands, he should be a comfort and a refuge. He shows himself to be a sane observer, willing patiently to comprehend the meaning of the system he has undertaken to set forth, and intelligent enough to observe that it is, even as it stands, a living instrument in the hands of men, usually somewhat unfamiliar with its historic significance, but determined to make it the means for the actual despatch of the business at hand. L. H.

ELEMENTS OF THE LAW OF DAMAGES: A Handbook for the Use of Students and Practitioners. By Arthur George Sedgwick. Second Edition, Revised and Enlarged. Boston: Little, Brown and Company. 1909. pp. xxxv, 368.

The text and the number of citations of this work, which accompanies a second edition of Professor J. H. Beale's *Cases on Damages*, are considerably enlarged after an interval of thirteen years. "The chief additions relate to Mental Suffering, . . . Death by Wrongful Act, Compensation and Benefits under Eminent Domain Statutes, Interference with Contract and the right to seek Employment, Liquidated Damages, Limitations of Liability," Damages in certain classes of contracts, Conflict of Laws, and Pleading and Practice. - Entire new chapters on Eminent Domain, Conflict of Laws, and Pleading and Practice appear in this edition.

Mr. Sedgwick prefers the views of the Rhode Island and later English cases (*Simone v. The Rhode Island Co.*, 28 R. I. 186, and *Dulieu v. White* (1901), 2 K. B. 669), that recovery can be had for physical injury resulting from fright caused by negligence to the New York and Massachusetts decisions (*Mitchell v. Rochester*, 151 N. Y. 107, and *Spade v. Lynn & Boston R. R. Co.*, 168 Mass. 285), which leave such a plaintiff remediless. Thus he finds the theory of proximate cause in actions for physical injury produced by negligence at length properly dealt with. He has made no change in his views as to exemplary damages. See 9 HARV. L. REV. 491. The growing importance of the subject of Conflict of Laws justifies the short chapter thereon. Here the author indicates that the law of the place of the performance of the contract should govern the measure of damages and the interest on the amount thereof. The peculiar Massachusetts rule that the rate of interest is determined as a matter of remedy by the *lex fori* (*Barringer v. King*, 5 Gray 9) he characterizes very properly as "local and technical." The many positive virtues noted in the first edition have, speaking generally, been perpetuated and enlarged in the new. J. W.

A TREATISE ON THE FEDERAL EMPLOYERS' LIABILITY AND SAFETY APPLIANCE ACTS. By W. W. Thornton. Cincinnati: The W. H. Anderson Company. 1909. pp. xlvi, 410. 8vo.

Mr. Thornton's book consists of two distinct parts — one of one hundred and thirty-nine pages on the Employers' Liability Act of 1908, and one of ninety-